

By: Representatives Wells-Smith, Chism,
Martinson, Moore (60th), Robertson,
Montgomery (74th)

To: Judiciary A

HOUSE BILL NO. 1481

1 AN ACT TO AMEND SECTION 93-5-24, MISSISSIPPI CODE OF 1972, TO
2 PROVIDE FOR A JOINT CUSTODY TRANSITION PERIOD BEFORE ONE PARENT IS
3 AWARDED CUSTODY; AND FOR RELATED PURPOSES.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

5 **SECTION 1.** Section 93-5-24, Mississippi Code of 1972, is
6 amended as follows:

7 93-5-24. (1) Custody shall be awarded as follows according
8 to the best interests of the child:

9 (a) Physical and legal custody to both parents jointly
10 pursuant to subsections 2 through 7.

11 (b) Physical custody to both parents jointly pursuant
12 to subsections 2 through 7 and legal custody to either parent.

13 (c) Legal custody to both parents jointly pursuant to
14 subsections 2 through 7 and physical custody to either parent.

15 (d) Physical and legal custody to either parent.

16 (e) Upon a finding by the court that both of the
17 parents of the child have abandoned or deserted such child or that
18 both such parents are mentally, morally or otherwise unfit to rear
19 and train the child the court may award physical and legal custody
20 to:

21 (i) The person in whose home the child has been
22 living in a wholesome and stable environment; or

23 (ii) Physical and legal custody to any other
24 person deemed by the court to be suitable and able to provide
25 adequate and proper care and guidance for the child.

26 In making an order for custody to either parent or to both
27 parents jointly, the court, in its discretion, may require the



28 parents to submit to the court a plan for the implementation of
29 the custody order.

30 (2) Joint custody may be awarded where irreconcilable
31 differences is the ground for divorce, in the discretion of the
32 court, upon application of both parents.

33 (3) In other cases, joint custody may be awarded, in the
34 discretion of the court, upon application of one (1) or both
35 parents.

36 (4) There shall be a presumption that joint custody is in
37 the best interest of a minor child where both parents have agreed
38 to an award of joint custody.

39 (5) (a) For the purposes of this section, "joint custody"
40 means joint physical and legal custody.

41 (b) For the purposes of this section, "physical
42 custody" means those periods of time in which a child resides with
43 or is under the care and supervision of one of the parents.

44 (c) For the purposes of this section, "joint physical
45 custody" means that each of the parents shall have significant
46 periods of physical custody. Joint physical custody shall be
47 shared by the parents in such a way so as to assure a child of
48 frequent and continuing contact with both parents.

49 (d) For the purposes of this section, "legal custody"
50 means the decision-making rights, the responsibilities and the
51 authority relating to the health, education and welfare of a
52 child.

53 (e) For the purposes of this section, "joint legal
54 custody" means that the parents or parties share the
55 decision-making rights, the responsibilities and the authority
56 relating to the health, education and welfare of a child. An
57 award of joint legal custody obligates the parties to exchange
58 information concerning the health, education and welfare of the
59 minor child, and to confer with one another in the exercise of
60 decision-making rights, responsibilities and authority.



61 An award of joint physical and legal custody obligates the
62 parties to exchange information concerning the health, education
63 and welfare of the minor child, and unless allocated, apportioned
64 or decreed, the parents or parties shall confer with one another
65 in the exercise of decision-making rights, responsibilities and
66 authority.

67 (6) Any order for joint custody may be modified or
68 terminated upon the petition of both parents or upon the petition
69 of one (1) parent showing that a material change in circumstances
70 has occurred.

71 (7) There shall be no presumption that it is in the best
72 interest of a child that a mother be awarded either legal or
73 physical custody.

74 (8) Notwithstanding any other provision of law, access to
75 records and information pertaining to a minor child, including but
76 not limited to medical, dental and school records, shall not be
77 denied to a parent because the parent is not the child's custodial
78 parent.

79 (9) In an order for custody the court shall provide a
80 six-month joint custody transition period before one (1) parent is
81 awarded physical and legal custody, unless such joint custody
82 transition period would not be in the best interest of the child.

83 **SECTION 2.** This act shall take effect and be in force from
84 and after July 1, 2002.

